

REMARKS

This responds to the Office Action mailed on May 13, 2008.

Claims 1, 3-5, 6, 8, 11, 18 and 21 are amended, claim 12 is canceled, and no claims are added; as a result, claims 1-6, 8-11, and 13-26 are now pending in this application.

Telephonic Interview Summary

Applicant's representative, Benjamin Armitage, thanks Examiner George Evanisko for the telephonic discussion on October 13, 2008, during which we discussed proposed arguments and amendments regarding claim objections and rejections.

Claim Objections

Claims 5, 6, 12, 15-18 and 21 were objected to due to informalities.

Claim 5 has been amended for clarification. Claims 6 and 21 have been amended for clarification as well.

Claim 12 has not been amended. Comparing the diameters of the helix and piston before they are coupled is relevant as the diameter of the helix may change as it is manipulated or positioned so as to couple with the piston. For example, the helix may be stretched over the piston, causing tension that assists the mechanical coupling. When stretched, the helix may have a different diameter than prior to the coupling. This element's description is clear as described in Claim 12.

Claim 15 has not been amended. The description of an "active fixation helix" is not unclear. Although the helix is active and capable of conducting an electrical current or voltage, this does not require that it be currently or constantly in contact with an electrical current or voltage at all times. This is an unnecessary limitation suggested by the Examiner and does not add further clarification to the claim. One skilled in the art recognizes the purpose and functionality of an active fixation helix.

Claim 18 has been amended for clarification.

§102 Rejection of the Claims

Claims 1, 2, 8-10, 19 and 23-26 were rejected under 35 U.S.C. § 102(b) for anticipation by Peers-Travarton (U.S. Patent No. 4,667,686).

Claim 1

Present Claim 1 includes at least “a piston movably disposed within the lead body; a fixation helix supported by the piston at a first portion of the fixation helix, the first portion of the fixation helix supported by the piston forming a drive mechanism including one or more helical drive grooves, the helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix; and a housing portion disposed near the distal end of the lead body, the housing portion including a guide disposed on an inner surface thereof and rideable within the helical drive grooves allowing at least one of advancing or retracting of the fixation helix relative to the lead body.” The Peers-Travarton reference does not disclose such elements.

The Peers-Travarton reference describes a helical ribbon (see column 3, line 18) acting as a driver coil. The helical ribbon contacts a shaft (see column 3, line 59) which carries the helical pin or fixation means (see column 3, line 61). The reference does not describe “helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix.” The grooves discussed in Peers-Travarton are located at the distal end of a tubular sleeve (see column 3, line 35 and FIG. 2) and not associated with a piston.

Claim 8

Presently Amended Claim 8 includes at least “a fixation helix coupled with, and protruding radially around, the piston along a first longitudinal portion of the fixation helix, the first portion of the fixation helix coupled with the piston forming helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix a drive mechanism that rides along the guide allowing at least one of advancing or retracting of the fixation helix relative to the lead body”. The Peers-Travarton reference does not disclose such elements. Similar to the arguments presented above regarding Claim 1 (which are herein

incorporated), the reference does not describe “helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix.”

Claim 19

Present Claim 19 includes at least “longitudinally driving the fixation helix with the drive mechanism, including moving the first portion of the fixation helix directly along the guide.” The Peers-Travarton reference does not disclose such an element. The grooves formed in the tubular member of the cited reference contact the latter portion of the fixation means and not a first portion.

Because not all elements of the present claims are found in the reference, it is respectfully requested that the novelty rejection be removed. All claims depending from independent claims 1, 8 and 19 are believed to be in similarly allowable condition.

Claims 1, 2, 8, 14-16, 19 and 23-26 were rejected under 35 U.S.C. § 102(b) for anticipation by Vachon (U.S. Patent No. 5,531,780). It appears the Examiner has not pointed out in any specificity why the Vachon reference anticipates the claims of the present application. Applicant asserts that the Vachon reference does not describe every element of the claims in question.

Claim 1

Present Claim 1 includes at least “a piston movably disposed within the lead body; a fixation helix supported by the piston at a first portion of the fixation helix, the first portion of the fixation helix supported by the piston forming a drive mechanism including one or more helical drive grooves, the helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix; and a housing portion disposed near the distal end of the lead body, the housing portion including a guide disposed on an inner surface thereof and rideable within the helical drive grooves allowing at least one of advancing or retracting of the fixation helix relative to the lead body.” The Vachon reference does not disclose such elements.

The Vachon reference describes therapeutic delivery methods for fixation means wrapped around a driver. The reference does not describe “helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix.” Further, Vachon does not disclose a “housing portion including a guide disposed on an inner surface thereof and rideable within the helical drive grooves allowing at least one of advancing or retracting of the fixation helix relative to the lead body.”

Claim 8

Presently Amended Claim 8 includes at least “a housing disposed near the distal end of the lead body, the housing including a guide disposed on an inner surface thereof; a conductor disposed within the lead body; a piston movably disposed within the housing; and a fixation helix coupled with, and protruding radially around, the piston along a first longitudinal portion of the fixation helix, the first portion of the fixation helix coupled with the piston forming helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix a drive mechanism that rides along the guide allowing at least one of advancing or retracting of the fixation helix relative to the lead body”. The Vachon reference does not disclose such elements.

Similar to the arguments presented above regarding Claim 1 (which are herein incorporated), the reference does not describe “helical drive grooves defined in part by a recess in an outer surface of the piston and successive turns of the fixation helix.” Also, the Vachon reference does not describe “a housing disposed near the distal end of the lead body, the housing including a guide disposed on an inner surface thereof.”

Claim 15

Present Claim 15 includes at least “a housing including a guide therein, the guide extending from an inner surface of the housing and adapted to interact directly with the first portion of the fixation helix.” The Vachon reference does not describe any type of guide.

Claim 19

Present Claim 19 includes at least “longitudinally driving the fixation helix with the drive mechanism, including moving the first portion of the fixation helix directly along the guide.” The Vachon reference does not disclose moving a first portion of a fixation helix directly along a guide.

Because not all elements of the present claims are found in the reference, it is respectfully requested that the novelty rejection be removed. All claims depending from independent claims 1, 8, 15 and 19 are believed to be in similarly allowable condition.

§103 Rejection of the Claims

Claims 3-6, 11, 12, 13 and 20-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peers-Travarton (U.S. Patent No. 4,667,686) in view of Bisping (U.S. Patent No. 4,282,885) or for claims 3-6, 11-13, 17, 18 and 20-22 of Vachon (U.S. Patent No. 5,531,780) in view of Bisping (U.S. Patent No. 4,282,885).

Claims 3-6 depend from Claim 1. Claims 11 and 13 depend from Claim 8 (Claim 12 has been canceled). Claims 17-18 depend from Claim 15 and Claims 20-22 depend from Claim 19. As discussed above, the Peers-Travarton and Vachon references do not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Bisping reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

Claims 14-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peers-Travarton (U.S. Patent No. 4,667,686).

Claim 14 depends from Claim 8. Claim 15 is an independent claim and is discussed above. Claim 16 depends from Claim 15. As discussed above, the Peers-Travarton reference does not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above in regard to Peers-Travarton.

Claims 17 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peers-Travarton (U.S. Patent No. 4,667,686) in view of Bisping (U.S. Patent No. 4,282,885).

Claims 17-18 depend from Claim 15. As discussed above, the Peers-Travarton reference does not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Bisping reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

Claims 9 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vachon (U.S. Patent No. 5,531,780).

Claims 9-10 depend from Claim 8. As discussed above, the Vachon reference does not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above discussed above in regard to Vachon.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of

the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6920 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

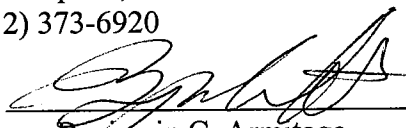
Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6920

Date

10/14/08

By



Benjamin C. Armitage
Reg. No. 57,213

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14 day of October 2008.

Name

Nicola Jack

Signature

